

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

**IN RE GOOGLE INC. COOKIE
PLACEMENT CONSUMER PRIVACY
LITIGATION**

Case No. 12-MD-2358 (SLR)

**This Document Relates to:
ALL ACTIONS**

**REQUEST FOR CLARIFICATION RE: SETTLEMENT WITH DEFENDANT
POINTROLL, INC.**

Plaintiffs William Gourley, Jose M. (“Josh”) Bermudez, Nicholas Todd Heinrich, and Lynne Krause (“Plaintiffs”) submit this request for clarification to the Court regarding the Settlement Agreement entered into with Defendant PointRoll, Inc. (“PointRoll”) as follow up to the October 11, 2013 email sent to the Court (pasted below, for the Court’s reference) following the Court’s October 9, 2012 ruling on the Motion to Dismiss. In light of the timing of notice and certain other practical issues concerning the PointRoll settlement with the Plaintiffs, Plaintiffs, after discussion with PointRoll’s counsel, sent the email on October 11 as an attempt to obtain a timely clarification. Plaintiffs submit this request for clarification to determine from the Court whether it would find it helpful to conduct a short telephonic conference or whether the Parties might submit additional papers on any issue on which the Court would like additional information, or if the proposed Modified Order, as suggested in the prior email sent, is sufficient.

The following is the text of the email sent on October 11, 2013 to slr_civil@ded.uscourts.gov:

In the matter of *In Re: Google Inc. Cookie Placement Consumer Privacy Litigation*, 1:12-md-02358-SLR, Plaintiffs and defendant PointRoll, Inc. had reached a settlement agreement signed by all the parties as of July 23, 2013, on which day Plaintiffs and

PointRoll filed a Joint Request to Stay the Proceedings before this Court (D.I. 109), signed by the Court on July 24, 2013. Plaintiffs then submitted their Motion for Preliminary Approval of the Class Action Settlement on September 23, 2013 (D.I. 118), and the Court granted the Motion on October 7, 2013. (D.I. 120). On October 9, 2013, the Court issued its Memorandum Opinion and Order granting the other three defendants' motions to dismiss (D.I. 121, 122) on grounds, inter alia, of lack of standing and thus Article III subject matter jurisdiction.

In light of the Motion to Dismiss ruling, we wish to confirm that no doubt exists about the Court's continuing Article III subject matter jurisdiction over the settlement entered into between Plaintiffs and PointRoll. We respectfully propose a Modified Order confirming that, consistent with the recitations contained at the top of page 2 and Paragraph 15 of the Court's October 7, 2013 Order Granting Motion for Preliminary Approval of Class Action Settlement (D.I. 120), the Court expressly confirm that it retains subject matter jurisdiction over the PointRoll settlement, and, that the Motion to Dismiss does not eliminate the Court's continued jurisdiction to approve the PointRoll settlement. In light of this issue, the parties respectfully wish to inform the Court that they have delayed the publication of notice of the proposed class action settlement pending resolution of this uncertainty in order to avoid confusion. If the Court agrees with this approach, we would submit a proposed Modified Order presently.

As always, the Parties are available at the convenience of the Court to answer any questions Your Honor may have.

Dated: October 23, 2013

Respectfully submitted,

KEEFE BARTELS, LLC

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